

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: **BORCHERDING, et al.**

Examiner: **BERCH, Mark**

Art Unit: **1624**

Application No.: **10/677,683**

Filed: **October 2, 2003**

Title: **ACYL AND SULFONYL
DERIVATIVES OF 6,9-
DISUBSTITUTED 2-(TRANS-1,4-
DIAMINOCYCLOHEXYL)-PURINES
AND THEIR USE AS
ANTIPROLIFERATIVE AGENTS**

Letter of Good Faith and Candor Regarding Patent Term Under § 37 C.F.R. § 1.705

Mail Stop Issue Fee
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Applicants request reconsideration of the patent term adjustment indicated in the Notice of Allowance mailed on April 24, 2008.

Applicants submit herewith a "Statement of the Correct Patent Term Adjustment: Basis Under §1.702 For the Adjustment.

Any patent granted on this application is not subject to a terminal disclaimer.

The patent term adjustment shown on the Notice of Allowance is 97 days. It is respectfully suggested that the correct patent term adjustment under §1.702 is 42 days.

Statement of the Correct Patent Term Adjustment

This statement is being submitted in support of the "Letter of Good Faith and Candor."

The basis on which applicant seeks adjustment is as follows:


1. On May 25, 2007 the USPTO issued a Final Office Action:

Adjustment date: 08/29/2008 CKHLOK
06/26/2008 INTEFSW 00012530 181982 10677683
01 FC:1455 200.00 CR

2. On October 19, 2007 Applicants responded to the May 25, 2007 Final Office Action. Applicants' response consisted of a two month EOT, an RCE and a 17 page amendment.
3. The USPTO's May 25, 2007 Final OA and Applicants' October 19, 2007 response are both shown in the Patent Term Adjustment tab in PAIR; however, calculations for Applicants' delay have not been made. Applicants believe that they delayed 55 days in responding to the May 25, 2007 Final Office Action.
4. Applicants agree with all other calculations of Applicant delay. Applicants believe that their total delay was 277 days.
5. Applicants agree with USPTO's calculation of 319 days of delay by the USPTO.
6. Applicants conclude that they are entitled to an Adjustment of Patent Term under 35 USC 154(b) of only 42 days and not 97 days as indicated in the April 24, 2008 Notice of Allowance.

The Commissioner is authorized to charge the \$200.00 fee set forth in §1.18(e) required by 37 C.F.R. §1.705(b)(1) to Deposit Account No. 18-1982. Applicant's ask that the \$200 fee be set aside since this a Letter of Good Faith and Candor in which applicants are requesting a reduction in patent term as a result of miscalculations made by the USPTO. The Commissioner is also authorized to charge any additional fees required by this paper or credit any overpayment to Deposit Account No. 18-1982.

Respectfully submitted,




George Jones, Reg. No. 38,508
Attorney/Agent for Applicant

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Docket No. USA3960 US CNT

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>08/21/08</u>		2 Serial/Patent # <u>10/677,683</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
	Extension of Time			\$							
	Notice of Appeal/Appeal			\$							
X	Petition	IFW	06/26/08	\$ 200.00							
	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
	Other			\$							
7 TOTAL AMOUNT OF REFUND			\$ 200.00								
8 TO BE REFUNDED BY:											
10 REASON:		Treasury Check									
	Overpayment	X	Credit Deposit A/C #:								
	Duplicate Payment		9 <table border="1" style="display: inline-table; border-collapse: collapse;"><tr><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">8</td><td style="width: 20px; text-align: center;">--</td><td style="width: 20px; text-align: center;">1</td><td style="width: 20px; text-align: center;">9</td><td style="width: 20px; text-align: center;">8</td><td style="width: 20px; text-align: center;">2</td></tr></table>		1	8	--	1	9	8	2
1	8	--	1	9	8	2					
X	No Fee Due (Explanation):										
Fee is not due with candor letter pursuant to comment 43.											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>Nancy Johnson</u>		TITLE: <u>Sr. Petitions Attorney</u>									
SIGNATURE: _____		PHONE: <u>571-272-3219</u>									
OFFICE: <u>Office of Petitions</u>											
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APPROVED: <u></u>		DATE: <u>8/29/08</u>									

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